

Board of Podiatric Medicine

A Manual

Of

Disciplinary Guidelines

And

Model Disciplinary Orders



Department of Consumer Affairs
State of California

STATE OF CALIFORNIA
BOARD OF PODIATRIC MEDICINE

**A MANUAL
OF
DISCIPLINARY GUIDELINES
AND
MODEL DISCIPLINARY ORDERS**

These Disciplinary Guidelines were originally adopted by the BPM on September 5, 1984, and most recently revised November 3, 2000. They are for use by administrative law judges, attorneys, and licensees.

Additional copies may be obtained from:

Board of Podiatric Medicine
1420 Howe Avenue, Suite 8
Sacramento, CA 95825-3229

(916) 263-2647

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GUIDELINES

The Board of Podiatric Medicine (BPM) recognizes that these are guidelines. If there are variations or omissions from the guidelines, the BPM requests the administrative law judge to include some explanation in the Proposed Decision so that the circumstances can be better understood by the BPM during its review of the case.

Probationary conditions are divided into two categories: (1) General Requirements, which appear in all probationary orders; and (2) Specific Requirements, which are variables that depend on the nature and circumstances of the particular case. Minimum and maximum penalties are listed and will also vary depending upon the severity of the alleged violations. Minimum penalties are stated to be used as minimums, not the standard or average penalty terms in a typical probation case.

General Requirements

The twelve general requirements that shall appear in every probation order are as follows. The bracketed number [] refers to the model language.

1. Obey all laws [8]
2. File quarterly reports [9]
3. Cooperate with probation surveillance program [10]
4. Interviews with medical consultant [11]
5. Tolling for cessation of practice [12]
6. Tolling of probation if respondent moves out of state [13]
7. Completion of probation [14]
8. Violation of probation [15]
9. Compliance with required continuing medical education [16]
10. Cost recovery [7]
11. Examination, Oral Clinical [31]
12. License surrender [17.1]

Specific Requirements

Excessive Prescribing [B&P 725]

Minimum penalty: Stayed revocation, at least 5 years probation
Maximum penalty: Revocation

1. Drugs - Total DEA restriction [19]
Surrender DEA permit [20]
or
Partial DEA restriction [21]
2. If warranted, oral clinical exam [31]
3. Maintain drug records for review [24]
4. Prescribing practices course [24a]
5. If warranted, suspension of 60 days or more [18]
6. If warranted, monitoring [36]
7. If warranted, education course [29]
8. If warranted, ethics course [29a]
9. If warranted, PACE Program [30a]

Excessive Treatments [B&P 725]

Minimum penalty: Stayed revocation, 5 years probation
Maximum penalty: Revocation

1. Oral clinical exam [31]
2. Education course [29]
3. If warranted, suspension of 60 days or more [18]
4. If warranted, monitoring [36]
5. If warranted, ethics course [29a]
6. If warranted, restrict practice [38]
7. If warranted, PACE Program [30a]
8. If warranted, prescribing practices course [24a]

Sexual Misconduct [B&P 726]

Minimum penalty: Stayed revocation, 7 years probation
Maximum penalty: Revocation

1. Psychiatric evaluation and/or psychotherapy [32]
2. Education course [29]
3. Ethics course [29a]
4. Require third party present [37]
5. If warranted, oral clinical examination [31]
6. If warranted, suspension of 60 days or more [18]
7. If warranted, monitoring [36]

Insurance Fraud [B&P 810]

Minimum penalty: Stayed revocation, 5 years probation
Maximum Penalty: Revocation

1. Ethics course [29a]
2. Restitution to consumers or other injured parties [40]

3. Suspension of 60 days or more [18]
4. Community service program [28]

Gross Negligence [B&P 2234(b)]

or

Repeated Negligent Acts [B&P 2234(c)]

or

Incompetence [B&P 2234(d)]

Minimum penalty: Stayed revocation, 5 years probation

Maximum penalty: Revocation

1. Oral clinical exam [31]
2. Education course [29]
or
Clinical training program [30]
or
PACE Program [30a]
3. Monitoring [36]
4. If warranted, restrict practice [38]
5. If warranted, suspension of 60 days or more [18]
6. If warranted, ethics course [29a]

Dishonesty [B&P 2234(e)]

Minimum penalty: Stayed revocation, 5 years probation, actual
suspension of at least 90 days

Maximum penalty: Revocation

1. Ethics course [29a]
2. If warranted, oral clinical examination [31]
3. Community service [28]
4. Reimburse victims, if any

Discipline by Another State [B&P 2305]

Minimum penalty: Corresponds to penalty for similar offense in
California

Maximum penalty: Revocation

1. Oral clinical exam as a condition precedent to practice in
California [31]

Practice During Suspension [B&P 2306]

Revocation is made mandatory under this code section.

Deceptive Advertising [B&P 2271, 651]

Minimum penalty: 90 days stayed suspension, 3 years probation

Maximum penalty: Revocation

1. Ethics course [29a]

2. If warranted, suspension of 60 days or more [18]
3. If warranted, oral clinical examination [31]

Criminal Conviction [B&P 2236]

Minimum penalty: Stayed revocation, 5 years probation
Maximum penalty: Revocation

Terms and conditions depend upon the nature of the criminal offense.

1. Ethics course [29a]
2. If warranted, oral clinical exam [31]
3. If warranted, suspension of 60 days or more [18]
4. Community service [28]

Drug-Related Conviction [B&P 2237]

or

Violation of Drug Laws [B&P 2238]

Minimum penalty: Stayed revocation, 5 years probation
Maximum penalty: Revocation

1. Oral clinical exam [31]
2. Drugs - Total DEA restriction [19]
Surrender DEA permit [20]
or
Partial DEA restriction [21]
3. Maintain drug records for review [24]
4. Prescribing practices course [24a]
5. Education course [29]
6. Suspension of 60 days or more [18]
7. If warranted, diversion program [27]
8. If warranted, biological fluid testing [26]
9. If warranted, monitoring [36]
10. If warranted, ethics course [29a]
11. If warranted, PACE Program [30a]

NOTE: Outright revocation for conviction of illegal sale of controlled drugs -- unless extensive mitigation appears.

Procuring License by Fraud [B&P 2235]

Revocation

Impersonation of Applicant in Examination [B&P 2288]

Revocation

Self-Abuse of Drugs [B&P 2239]

Minimum penalty: Stayed revocation, 5 years probation
Maximum penalty: Revocation

1. Diversion program [27]
2. Oral clinical examination [31]
3. Drugs - Total DEA restriction [19]
Surrender DEA permit [20]
or
Partial restriction [21]
4. Maintain drug records for review [24]
5. Prescribing practices course [24a]
6. Education course [29]
7. Biological fluid testing [26]
8. If warranted, suspension of 60 days or more [18]
9. Ethics course [29a]

Alcohol Abuse [B&P 2239]

Minimum penalty: Stayed revocation, 5 years probation
Maximum penalty: Revocation

1. Diversion program [27]
2. Oral clinical exam [31]
3. Biological fluid testing [26]
4. If warranted, suspension of 60 days or more [18]
5. If warranted, monitoring [36]
6. If warranted, ethics course [29a]

Prescribing to Addicts [B&P 2241]

Minimum penalty: Stayed revocation, 5 years probation
Maximum penalty: Revocation

1. Drugs - Total DEA restriction [19]
Surrender DEA permit [20]
or
Partial restriction [21]
2. Maintain drug records for review [24]
3. Prescribing practices course [24a]
4. If warranted, oral clinical exam [31]
5. If warranted, education course [29]
or
Clinical training program [30]
6. If warranted, suspension of 60 days or more [18]
7. If warranted, monitoring [36]
8. If warranted, ethics course [29a]
9. If warranted, PACE Program [30a]

Violation of Drug Statutes [B&P 2238]

See convictions related to drugs.

Aiding and Abetting Unlicensed Practice [B&P 2264]

Minimum penalty: Stayed revocation, 3 years probation
Maximum penalty: Revocation

1. If warranted, suspension of 60 days or more [18]

Fictitious Name Violation [B&P 2285]

Minimum penalty: 30 days stayed suspension, one year probation
Maximum penalty: Six month suspension

Prescribing Drugs Without Prior Examination [B&P 2242]

Minimum penalty: Stayed revocation, 5 years probation
Maximum penalty: Revocation

1. Oral clinical exam [31]
2. Drugs - Total DEA restriction [19]
Surrender DEA permit [20]
or
Partial restriction [21]
3. Maintain drug records for review [24]
4. Prescribing practices course [24a]
5. Education course [29]
6. If warranted, suspension of 90 days or more [18]
7. If warranted, monitoring [36]
8. If warranted, ethics course [29a]
9. If warranted, PACE Program [30a]

Making or Signing False Documents [B&P 2261]

or

Alteration of Medical Records [B&P 2262]

Minimum penalty: Stayed revocation, 3 years probation
Maximum penalty: Revocation

1. Ethics course [29a]
2. If warranted, suspension of 60 days or more [18]

Violation of Probation

Minimum penalty: Impose actual period of suspension
Maximum penalty: Impose penalty that was stayed

The maximum penalty should be given for repeated similar offenses or for probation violations revealing a recalcitrant attitude. Other violations of probation should draw at least a period of actual suspension, preferably 90 days or more.

MODEL LANGUAGE

MODEL NUMBER

1. **Revocation - Single Cause**

Certificate No. (Ex: E-1035) issued to respondent (Ex: John Doe, DPM) is revoked.

2. Revocation - Multiple Causes

Certificate No. _____ issued to respondent _____ is revoked pursuant to Determination of Issues (Ex: I, II, and III) separately and for all of them.

3. Suspension - Single Cause

Certificate No. _____ issued to respondent _____ is suspended (Ex: 30 days/one year).

4. Suspension - Multiple Causes (run concurrently)

Certificate No. _____ issued to respondent _____ is suspended (Ex: 30 days) pursuant to Determination of issues _____, separately and for all of them. All suspensions shall run concurrently.

5. Suspension - Multiple Causes (run consecutively)

Certificate No. _____ issued to respondent _____ is suspended _____ pursuant to Determination of issues _____, and _____ pursuant to Determination of issues _____. These suspensions shall run consecutively, for a total period of _____.

NOTE: Total suspension may not exceed one year.
B&P 2227.

6. Standard Stay Order

However, (revocation/suspension) is stayed and respondent is placed on probation for _____ years upon the following terms and conditions: (Refer to Optional & Standard Conditions.) Within 15 days after the effective date of this decision the respondent shall provide the BPM, or its designee, proof of service that respondent has served a true copy of this decision on the Chief of Staff or the Chief Executive Officer at every hospital where respondent engages in the practice of medicine and on the Chief Executive Officer at every insurance carrier where malpractice insurance coverage is extended to respondent.

General Requirements
(To Be Included in All Cases of Probation)

7. Recovery of Investigation & Prosecution Costs

The respondent is hereby ordered to reimburse the BPM the amount of \$_____ within 90 days of the effective date of this decision for the recovery of the actual and reasonable costs of the investigation and prosecution of this matter as provided for in Section 2497.5 of the Business and Professions Code. Failure to reimburse the BPM's cost of its investigation and prosecution shall constitute a violation of the probation order, unless the BPM agrees in writing to payment by an installment plan because of financial hardship. The filing of bankruptcy shall not relieve the respondent of his or her responsibility to reimburse the BPM for its investigative and prosecution costs.

8. Obey All Laws

Respondent shall obey all federal, state and local laws, and all rules governing the practice of podiatric medicine in California.

9. Quarterly Reports

Respondent shall submit quarterly declarations, under penalty of perjury, on forms provided by the BPM, stating whether there has been compliance with all the conditions of probation.

Notwithstanding any provision for tolling of requirements of probation, during the cessation of practice respondent shall continue to submit quarterly declarations under penalty of perjury.

10. Surveillance Program

Respondent shall comply with the BPM's probation surveillance program.

11. Interview with Podiatric Medical Consultant

Respondent shall appear in person for interviews with the BPM's medical consultant, upon request, at various intervals and with reasonable notice.

12. Tolling for Cessation of Practice

In the event the respondent fails to satisfactorily complete any provision of the order of probation, which results in the cessation of practice, all other provisions of probation other than the submission of quarterly reports shall be held in abeyance until respondent is permitted to resume the practice of podiatry. All provisions of probation shall recommence on the effective date of resumption of practice. Periods of cessation of practice will not apply to the reduction of the probationary period.

13. Tolling for Out-of-State Practice or Residence

In the event respondent should leave California to reside or to practice outside the state, respondent must notify the BPM in writing of the dates of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.

14. Completion of Probation

Upon successful completion of probation, respondent's certificate will be fully restored.

15. Violation of Probation

If respondent violates probation in any respect, the BPM, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the BPM shall have continuing jurisdiction until the matter is final, the period of probation shall be extended until the matter is final and no petition for modification of penalty shall be considered while there is an accusation or petition to revoke probation pending against respondent.

16. Compliance with Required Continuing Medical Education

Respondent shall submit satisfactory proof biennially to the BPM of compliance with the requirement to complete fifty hours of approved continuing medical education, meet continuing competence requirements, and possess a current, valid certificate in basic cardiopulmonary resuscitation (CPR) for re-licensure during each two (2) year renewal period.

17. Nolo Language for Stipulated Decisions

IT IS STIPULATED AND AGREED by and between the parties in the above entitled action that the following matters are

deemed true only for the purpose of (1) this proceeding, (2) any other proceeding before the Board, (3) or any action taken by or before any governmental body responsible for licensing podiatrists. Only for the purpose of said proceedings and actions, and for no other purpose, evidence shall not be necessary to establish the truth of the following matters.

17.1 License Surrender

Following the effective date of this decision, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily tender his or her license to the BPM. The BPM reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

Specific Requirements

18. Actual Suspension

As part of probation, respondent is suspended from the practice of podiatric medicine for (Ex: 90 days) beginning the effective date of this decision.

18a. Posted Notice of Suspension

If suspension is ordered, respondent shall prominently post a notice of the Board's Order of Suspension, in a place clearly visible to the public. Said notice, provided by the Board, shall remain so posted during the entire period of actual suspension.

19. Controlled Drugs - Total Restriction

Respondent shall not prescribe, administer, dispense, order or possess any controlled substances as defined in the California Uniform Controlled Substances Act.

NOTE: Also use Condition 23 which exempts "possessing" for personal illness.

20. Controlled Drugs - Surrender of DEA Permit

Respondent is prohibited from practicing podiatric

medicine until respondent provides documentary proof to the BPM that respondent's DEA permit has been surrendered to the Drug Enforcement Administration for cancellation, together with any triplicate prescription forms and federal order forms. Thereafter, respondent shall not reapply for a new DEA permit without the prior written consent of the BPM or its designee, or until successful completion of probation, whichever comes first.

21. Controlled Drugs - Partial Restriction

Respondent shall not prescribe, administer, dispense, order or possess any controlled substances as defined by the California Uniform Controlled Substances Act, except for those drugs listed in Schedules(s) (Ex: IV and V) of the Act.

(Optional)

However, respondent is permitted to prescribe, administer, dispense or order controlled substances listed in Schedule(s) (Ex: II and III) of the Act for inpatients in a hospital setting, and not otherwise.

(Optional)

Respondent shall immediately surrender respondent's current DEA permit to the Drug Enforcement Administration for cancellation and reapply for a new DEA permit limited to those Schedules authorized by this order.

NOTE: DEA will delete only a complete Schedule. It will not issue a new permit with partial restrictions of a single Schedule. Example: "IIs and IIIs are barred in the office, but permitted in a hospital setting." No need for a new permit. The BPM will enforce this special restriction on its own. If in doubt, omit the above condition.

NOTE: Also use model Condition No. 23 which exempts "possessing" for personal illness.

22. Drugs - Abstain from Use

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined by Section 4211 of the Business and Professions Code, or any drugs requiring a prescription.

NOTE: Also use model Condition No. 23 which exempts "use or possession" for personal illness.

23. Drugs - Exception for Personal Illness

Orders forbidding respondent from personal use or possession of controlled substances or dangerous drugs do not apply to medications lawfully prescribed to respondent for a bona fide illness or condition by another practitioner.

NOTE: Add this exception whenever Condition 19, 21, or 22 are used.

24. Controlled Drugs - Maintain Records

Respondent shall maintain a record of all controlled substances prescribed, dispensed or administered by respondent during probation. The record shall show the following: 1) the name and address of the patient, 2) the date, 3) the character and quantity of controlled substances involved, and 4) the pathology and purpose for which the controlled substance was furnished.

Respondent shall keep these records in a separate file or ledger in chronological order, and shall make them available for inspection and copying by the BPM or its designee, upon request.

24a. Prescribing Practices Course

Within 60 days of the effective date of this decision, respondent shall enroll in a course in prescribing practices, approved in advance by the BPM or its designee, and shall successfully complete the course during the first year of probation.

25. Alcohol - Abstain from Use

Respondent shall abstain completely from the use of alcoholic beverages.

26. Biological Fluid Testing

Respondent shall immediately submit to biological fluid testing, at respondent's cost, upon the request of the BPM or its designee.

27. Rehabilitation Program - Alcohol or Drug

Within 30 days of the effective date of this decision, respondent shall submit to the BPM for its prior approval a rehabilitation treatment program. Within 30 days of approval of said program respondent shall enroll and participate until the BPM or its designee determines that further treatment and rehabilitation is no longer

necessary. Quitting the program without permission or being expelled for cause shall constitute a violation of probation by respondent.

28. Community Service - Free Services

Within 60 days of the effective date of this decision, respondent shall submit to the BPM for its prior approval a community service program in which respondent shall provide free medical services on a regular basis to a community or charitable facility or agency for at least (Ex: 20) hours a month for the first (Ex: 24) months of probation. Neither respondent nor respondent's practice nor any partner, associate or employee of respondent shall benefit financially from such a community service program.

29. Education Course

Within 90 days of the effective date of this decision, and by that date each subsequent year of probation thereafter, respondent shall submit to the BPM or its designee, for its prior approval, an educational program or course related to (Ex: surgical techniques), which shall not be less than 40 hours per year, for each year of probation. This program shall be in addition to the Continuing Medical Education requirements for relicensure. Following the completion of each course, the BPM or its designee may administer an examination to test respondent's knowledge of the course. Each year of probation, respondent shall provide proof of attendance for 40 hours of preapproved continuing medical education in satisfaction of this condition.

29a. Ethics

Within 60 days of the effective date of this decision, respondent shall submit to the Board of Podiatric Medicine for its prior approval a course in Ethics, which respondent shall successfully complete during the first year of probation.

30. Clinical Training Program

Within 90 days of the effective date of this decision, respondent shall submit to the BPM or its designee, for its prior approval, an intensive clinical training program. The exact number of hours and the specific content of the program shall be determined by the BPM or its designee and will be in addition to the Continuing Medical education requirements for relicensure. Respondent shall successfully complete the training program no later than _____ and will be required to

pass an examination approved by the BPM, related to the program's contents.

30a. Physicians Assessment & Clinical Education (PACE) Program

Within 60 days of the effective date of this decision, respondent at his/her own expense shall enroll in PACE Program and shall undergo assessment and clinical training. After a full assessment by the PACE Evaluation Committee, respondent shall agree to participate in any recommended PACE Program clinical training and shall submit to any PACE Program recommended treatment of any medical or mental condition identified in the comprehensive assessment component, and comply with all PACE Program requirements and recommendations. Respondent shall complete the PACE Program, including recommended clinical training and/or treatment, within six (6) months after the initial enrollment unless the BPM or its designee agrees in writing to a later date for completion of any PACE Program requirements or recommendations that may take longer to complete.

31. Examination, Oral Clinical

Respondent shall take and pass an oral clinical examination to be administered by the BPM or its designee on _____ (the Board will supply the dates of its twice-yearly exams). If respondent fails this examination, respondent shall take and pass an oral clinical examination to be administered by the BPM or its designee on _____. If respondent fails this examination, respondent shall take and pass an oral clinical examination to be administered by the BPM or its designee on _____. Refusal or failure to take any required examination shall be deemed a failure of the examination and a violation of probation. After three failures, respondent must wait one year to take each necessary re-examination thereafter, and each exam shall be one of the BPM's regularly scheduled examination dates. The respondent shall pay the cost of the examination(s).

(Continue with either one of these two options.)

OPTION 1: Condition Subsequent

If the respondent fails to take and pass the first available oral clinical examination, respondent shall be suspended from the practice of podiatric medicine. The respondent shall cease the practice of medicine within 72 hours of being given notice by the BPM or its designee that respondent has failed to take or has failed to pass the examination. Respondent shall remain suspended from the practice of medicine until the oral clinical

examination has been successfully passed, as evidenced by written notice to respondent from the BPM or its designee.

OPTION 2: Condition Precedent

Respondent shall not practice podiatry until respondent has passed this examination and has been so notified by the BPM in writing. Failure to pass the required examination no later than 100 days prior to the termination of probation shall constitute a violation of probation.

NOTE: The condition precedent option is strongly recommended in all cases involving findings of gross negligence or incompetence or repeated acts of negligence.

32. Psychiatric Evaluation

Within 30 days of the effective date of this decision, and on a periodic basis thereafter, as may be required by the BPM or its designee, respondent shall undergo a psychiatric evaluation by a BPM-appointed psychiatrist who shall furnish a psychiatric report to the BPM or its designee. The respondent shall pay the cost of such an evaluation. Respondent shall make such payment directly to the psychiatrist consistent with arrangements made with the psychiatrist. The BPM shall not be responsible for collecting or ensuring such payments. Any failure to make such payments within 60 days of the agreed-to arrangements shall be deemed a violation of probation and grounds for further discipline.

If respondent is required by the BPM or its designee to undergo psychiatric treatment, respondent shall within 30 days of the requirement notice, submit to the BPM for its prior approval, the name and qualifications of a psychiatrist of respondent's choice. Upon approval of the treating psychiatrist, respondent shall undergo and continue psychiatric treatment until further notice from the BPM. Respondent shall have the treating psychiatrist submit quarterly status reports to the BPM. The respondent shall pay the cost of such treatment.

(Optional)

Respondent shall not engage in the practice of podiatry until notified by the BPM of its determination that respondent is mentally fit to practice safely.

33. Psychotherapy

Within 30 days of the effective date of this decision,

respondent shall submit for prior approval to the BPM or its designee, the name and qualifications of a psychotherapist of respondent's choice. Upon approval, respondent shall undergo and continue treatment until the BPM deems that no further psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly status reports to the BPM. The BPM may require respondent to undergo psychiatric evaluations by a BPM-appointed psychiatrist. The respondent shall pay the cost of such evaluations. Respondent shall make such payment directly to the psychotherapist. The BPM shall not be responsible for collecting or ensuring payments. Any failure to make such payments within 60 days of the agreed-to arrangements shall be deemed a violation of probation and grounds for further discipline.

If, prior to the termination of probation, respondent is found not to be mentally fit to resume the practice of podiatric medicine without restrictions, the BPM shall retain continuing jurisdiction over the respondent's license and the period of probation shall be extended until the BPM or its designee determines that the respondent is mentally fit to resume the practice of podiatric medicine without restrictions.

34. Medical Evaluation

Within 30 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the BPM or its designee, respondent shall undergo a medical evaluation by a BPM-appointed physician who shall furnish a medical report to the BPM or its designee. The respondent shall pay the cost of such evaluation.

If respondent is required by the BPM or its designee to undergo medical treatment, respondent shall within 30 days of the requirement notice, submit to the BPM for its prior approval the name and qualifications of a physician of respondent's choice. Upon approval of the treating physician, respondent shall undergo and continue medical treatment until further notice from the BPM. Respondent shall have the treating physician submit quarterly reports to the BPM. The respondent shall pay the cost of such treatment.

(Optional)

Respondent shall not engage in the practice of podiatry until notified by the BPM or its designee of its determination that respondent is medically fit to practice safely.

35. Medical Treatment

Within 60 days of the effective date of this decision, respondent shall submit to the BPM or its designee, for its prior approval, the name and qualifications of a physician of respondent's choice. Upon approval, respondent shall undergo and continue treatment until the BPM deems that no further medical treatment is necessary. Respondent shall have the treating physician submit quarterly status reports to the BPM.

The BPM may require respondent to undergo periodic medical evaluations by a BPM-appointed physician. The respondent shall pay the cost of such evaluation.

36. Monitoring

Within 30 days of the effective date of this decision, the entire practice will be monitored, including, but not limited to the following: medical records, charting, pre and postoperative evaluations, and all surgical procedures.

The BPM shall immediately, within the exercise of reasonable discretion, appoint a doctor of podiatric medicine from its panel of consultants as the monitor. The monitor shall provide periodic reports to the BPM or its designee. The BPM or its designee shall determine the frequency and practice areas to be monitored. Such monitoring shall be required during the entire period of probation. The BPM or its designee may at its sole discretion also require prior approval by the monitor of any medical or surgical procedures engaged in by the respondent. The respondent shall pay all costs of such monitoring and shall otherwise comply with all requirements of his/her contract with the monitor, a copy of which is attached as "Appendix A." If the monitor terminates the contract, or is no longer available, the BPM or its designee shall appoint a new monitor immediately. Respondent shall not practice at any time during the probation until the respondent provides a copy of the contract with the current monitor to the probation officer and such contract is approved by the Board.

Respondent shall provide access to the practice monitor of respondent's patient records and such monitor shall be permitted to make direct contact with any patients treated or cared for by respondent and to discuss any matters related to respondent's care and treatment of those patients. Respondent shall obtain any necessary patient releases to enable the monitor to review records and to make direct contact with patients. Respondent shall execute a release authorizing the monitor to provide to the BPM or its designee any relevant information. If the practice monitor deems it necessary to directly contact any patient, and thus require the

disclosure of such patient's identity, respondent shall notify the patient that the patient's identity has been requested pursuant to the disciplinary order. This notification shall be signed and dated by each patient prior to the commencement or continuation of any examination or treatment of each patient by respondent and a copy of such notification shall be maintained in each patient's file. The notifications signed by respondent's patients shall be subject to inspection and copying by the BPM or its designee at any time during the period of probation that respondent is required to comply with this condition. The practice monitor will sign a confidentiality agreement, requiring him or her to keep all patient information regarding respondent's patients in complete confidence, except as otherwise required by the BPM or its designee.

37. Third Party Presence - Sexual Transgressors

During probation, respondent shall have a third party present while examining or treating (female/male/minor) patients. The third party shall initial the chart of all (female/male/minor) patients. Respondent shall, within 30 days of the effective date of the decision, submit to the BPM or its designee for its approval name(s) of persons who will act as the third party present. Respondent shall obtain any necessary patient releases to enable the monitor to review records and to make direct contact with patients. The respondent shall execute a release authorizing the third party(s) present to divulge any information that the BPM may request during interviews by the probation monitor on a periodic basis.

38. Restricted Practice - Incompetence

During probation, respondent is prohibited from practicing (Ex: surgery).

(Optional)

Respondent is required to give patients notice of this prohibited practice.

39. Provisions for Cessation of Practice

In settlements or orders which provide for a cessation of practice, respondent shall comply with procedures provided by the BPM regarding notification and management of patients.

40. Restitution

Within 90 days of the effective date of this Decision, respondent shall provide proof to the BPM or its designee of restitution in the amount \$_____ paid to _____. Failure to pay restitution shall be considered a violation of probation.

NOTE: In offenses involving economic exploitation, restitution is a necessary term of probation. For example, restitution would be a standard term in any case involving Medi-Cal or other insurance fraud. The amount of restitution shall be no less than the amount of money that was fraudulently obtained by the licensee. Evidence relating to the amount of restitution would have to be introduced at the administrative hearing.

41. Probation Costs

Respondent shall pay the administrative costs incurred by the BPM associated with probation monitoring each and every year of probation. Such costs shall be payable to the BPM at the end of each fiscal year. Respondent will be provided with an invoice at the close of each fiscal year which must be paid within 30 days of receipt. The final invoice will be provided upon termination of probation and is also due and payable within 30 days of receipt. Failure to pay such costs shall be considered a violation of probation.

42. Notice to Employees

Respondent shall, upon or before the effective date of this Decision, post or circulate a notice which actually recites the offenses for which respondent has been disciplined and the terms and conditions of probation, to all employees involved in his/her practice. Within fifteen (15) days of the effective date of this Decision, respondent shall cause his/her employees to report to the BPM in writing, acknowledging the employees have read the Accusation and Decision in the case and understand respondent's terms and conditions of probation.

43. Changes of Employment

Respondent shall notify the BPM in writing, through the assigned probation officer, of any and all changes of employment, location, and address within thirty (30) days of such change.

MONITORING CONTRACT

1. Respondent, DPM, (hereinafter "respondent") and Monitor, DPM, (hereinafter "monitor") agree that the purpose of the present contract is to have monitor perform, in exchange for compensation from respondent, the duties of monitor, as set forth in the decision and order of the Board of Podiatric Medicine in case No. _____ (hereinafter "decision and order").

2. Respondent shall compensate monitor at the rate of \$ _____ per hour for all work performed in executing the duties of monitor.

3. Monitor shall submit a billing statement on a monthly basis to respondent for all work performed in executing the duties of monitor and shall concurrently submit a copy of the billing statement to the board or its designee. The billing statement shall be mailed by certified mail to respondent no later than the tenth of each month. The billing statement shall present an itemization of all work performed, the date and number of hours, and the corresponding charges. Respondent shall pay for all work performed within 30 days of receiving the billing statement.

4. Monitor shall be required to perform the duties of monitor in accordance with the terms and conditions in the decision and order. Monitor, while performing the duties of monitor, shall be subject to the authority of the board and may be terminated from the monitorship if he/she fails to perform satisfactorily the duties, responsibilities, or powers vested in him/her by the order and decision of the board.

5. The board may alter the duties of monitor in accordance

with the terms and conditions of the decision and order.

6. Respondent shall comply and cooperate with monitor in executing terms and conditions of the decision and order of the board.

7. The board, or its designee, shall have the exclusive right to determine whether monitor is satisfactorily performing the duties, responsibilities, or powers vested in him/her by the order and decision of the board.

8. Monitor shall be held harmless by respondent from any legal claim, cause of action, or action arising from any opinions rendered, statements made, or testimony given to the Board of Podiatric Medicine or its representatives, whether oral or written, in the course of executing the duties of monitor.

Date

DPM, Respondent

Date

DPM, Monitor